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Message Text

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63
ACTION EB-11

INFO OCT-01 AF-10 ARA-16 EA-11 EUR-25 NEA-14 RSC-01 FEA-02

AGR-20 CEA-02 CIAE-00 COME-00 DODE-00 FRB-03 H-03

INR-11 INT-08 L-03 LAB-06 NSAE-00 NSC-07 PA-04 AID-20

CIEP-02 SS-20 STR-08 TAR-02 TRSE-00 USIA-15 PRS-01

SP-03 OMB-01 SWF-02 IO-14 ISO-00 DRC-01 /247 W
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R 151427Z JUL 74
FM USMISSION GENEVA
TO SECSTATE WASHDC 7075
INFO AMEMBASSY BERN
AMEMBASSY BONN
AMEMBASSY BRUSSELS
AMEMBASSY BUCHAREST
AMEMBASSY COPENHAGEN
AMEMBASSY DUBLIN
AMEMBASSY THE HAGUE
AMEMBASSY HELSINKI
AMEMBASSY LISBON
AMEMBASSY LONDON
AMEMBASSY LUXEMBOURG
AMEMBASSY MADRID
AMEMBASSY OSLO
AMEMBASSY OTTAWA
AMEMBASSY PARIS
AMEMBASSY REYKJAVIK
AMEMBASSY ROME
AMEMBASSY STOCKHOLM
AMEMBASSY TOKYO
AMEMBASSY VIENNA
USMISSION EC BRUSSELS UNN

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E.O. 11652: N/A

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TAGS: ETRD, GATT
SUBJECT: GATT ARTICLE XXII:1 CONSULTATIONS ON RULES OF ORIGIN, JULY 11

REF: GENEVA 2694

BEGIN SUMMARY: ON JULY 11, US DEL MET WITH EC/EFTA PARTIES AND OTHER PARTICIPATING COUNTRIES FOR SECOND MEETING OF GATT ARTICLE XXII:1 CONSULTATION ON EC/EFTA RULES OF ORIGIN. IN RESPONSE TO PREVIOUSLY PRESENTED US PAPER, EC/EFTA REITERATED THEIR BASIC GATT LEGAL POSITION, DENIED RELEVANCY OF COMPARISION OF OLD EFTA RULES AND NEW EC/EFTA RULES PRESENTED BY THE US DEL AT THE FIRST MEETING (REFTEL), SUGGESTED THAT GATT SECRETARIAT MIGHT PREPARE STUDY OF ALL EXISING ORIGIN RULES CURRENTLY IN FORCE IN GATT CPS AND REPEATED WILLINGNESS TO DISCUSS ANY SPECIFIC CASES OF TRADE INJURY RESULTING FROM ORIGIN RULES. US WITH SUPPORT OF SEVERAL OTHERS DISAGREED WITH EC/EFTA COUNTRIES ON LEGAL POSITION AND RELEVANCE OF COMPARISON, DISTRIBUTED PAPER COMPARING EC/EFTA TARIFF DIFFERENTIALS, INDICATED WE WOULD CONSIDER PROPOSAL REGARDING GATT SECRETARIAT STUDY AND SUGGESTED SECOND SUBSTANTIVE MEETING FOR OCTOBER. FOLLOWING DAY US DEL MET INFORMALLY WITH SELECTED EC/EFTA REPRESENTATIVES AND EXPRESSED CONCERN ABOUT UNRESPONSIVENESS OF EC/EFTA STATEMENTS. END SUMMARY

1. AT FIRST MEETING OF GATT ARTICLE XXII:1 CONSULTATIONS ON APRIL 29 US SUBMITTED PAPER COMPARING ORIGINAL EFTA WITH NEW EC/EFTA RULES OF ORIGIN (ORS) WHICH CONCLUDED THAT LATTER ARE SUBSTANTIALLY MORE RESTRICTIVE THAN FORMERDESPITE EVIDENCE THAT FORMER WERE SUFFICIENTLY STRICT TO PREVENT TRADE DEFLECTION. US REQUESTED WRITTEN RESPONSE TO PAER AND CERTAIN ADDITIONAL DATA AND INFORMATION PRIOR TO SECOND MEETING.

2. AT OPENING OF SECOND MEETING DUNKEL (SWITZ) MADE LENGTHY STATEMENT ON BEHALF OF EC/EFTA PARTIES WHICH:
(A) SET FORTH BASIC LEGAL POSITION THAT GENERAL AGREEMENT DOES NOT DEAL SPECIFICALLY WITH ORS
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TO BE APPLIED IN A FREE-TRADE AREA; THAT GATT IMPOSES NO OBLIGATION ON PARTIES TO FREE-TRADE AREAS TO DESIGN ORS IN ANY PRESCRIBED MANNER; AND THAT ORS APPLIED IN A FREE-TRADE AREA ARE NOT REGULATIONS OF COMMERCE MENTIONED IN ARTICLE XXIV:5(B) OF GENERAL AGREEMENT.
(B) ASSERTED THAT ANY COMPARISON OF ORIGINAL EFTA AND NEW EC/EFTA ORIGIN SYSTEM IS NOT RELEVANT

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SUBJECT FOR PURPOSES OF ARTICLE XXII:1 CONSUL-
TATIONS; THAT COMPARISON IS IRRELEVANT BECAUSE OF
"FUNDAMENTALLY DIFFERENT" GEOGRAPHIC AND ECONOMIC
CIRCUMSTANCES OF TWO AREAS; AND THAT, MOREOVER,
COMPARISON MADE IN US PAPER IS THEORETICAL AND
ABSTRACT AND WILL NOT UIELD MEANINGFUL CONSLUSIONS.
(:) EXPLAINED AT LENGTH FUNCTIONING OF PRESENT EC/
EFTA ORS PROVIDING LETTLE SUBSTANCE NOT PREVIOUSLY
KNOWN.
(D) AS ALTERNATIVE TO EARLIER US PROPOSAL FOR STUDY
BY GATT FREE-TRADE AREA PROVISIONS, EXPRESSED WILLING-
NESS, IF US AND OTHERS WOULD BE INTERESTED, IN HAVING
GATT SECRETARIAT PROVIDE INFORMATION ON ORS
PRESENTLY IN FORCE IN ALL GATT CONTRACTING PARTIES
AND
(E) REITERATED WILLINGNESS TO DISCUSS ANY CONCRETE
CASES OF TRADE DAMAGE CAUSED BY EFTA/EC/EFTA ORS.

3. IN RESPONSE, US REP (MATTHEISEN) REFERRED TO DETAILED
STATEMENT OF US VIEWS ON GATT LEGAL ISSUES IN EARLIER
WORKING PARTY EXAMINATION OF EC/EFTA AGREEMENTS AND
INDICATED THAT WE DID NOT WISH TO EXPAND ON THESE VIEWS
AT PRESENT TIME ALTHOUGH WE MAY WELL DO SO LATER; RECOG-
NIZED DIFFERING VIEWS ON RELEVANCE OF COMPARISON OF
ORIGINAL EFTA AND EC/EFTA ORS BUT HOPED WAY COULD BE
FOUND AROUND IMPASSE ON THIS ISSUE; EXPRESSED
WILLINGNESS GIVE CONSIDERATION TO PROPOSAL FOR GATT
SECRETARIAT PAPER ON ORS IN FORCE IN ALL CPS. CANADIAN
REP (DYMOND) MADE SEVERAL RATHER LONG INTERVENTIONS
WHICH, FOR MOST PART, REITERATED VIEWS ON LEGAL
ISSUES EXPRESSED BY CANADA AND FOR US IN EARLIER GATT
WORKING PARTIES ON EC/EFTA AGREEMENTS. CANADA DID
SAY, HOWEVER, THAT THEY WOULD SUBMIT PAPER OF ILLUSTRATIVE
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NATURE DEALING WITH SPECIFIC COMMODITY PROBLEMS. ROMANIA
SAID FACT THAT PREVIOUSLY EXISTING 50 PERCENT ORIGIN
RULE HAS BEEN REPLACED BY RULES VARYING FROM 5 TO 50 PERCENT
IS RELEVANT ISSUE FOR CONSULTATIONS. FOR EXAMPLE ROMANIA
HOPES TO EXPORT TRANSITORS FOR USE IN RECEPTION AND
TRANSMISSION EQUIPMENT; THIS TRADE WILL BE IMPAIRED BY
REDUCTION OF ALLOWABLE NON-ORIGIN TRANSITORS FROM 50
PERCENT TO THREE PERCENT. JAPAN DAID WHILE THEY WERE NOT YET
ABLE PRESENT SPECIFIC CASES OF INJURY, TOYKO WAS SUSPICIOUS
OF R/O. SUSPICION FANNED BY FAILURE OF PARTIES TO AGREE-
MENTS PROVIDE PLAUSIBLE REASON WHY 50 PERCENT RULE AND
BASIC MATERIALS LIST HAVE DISAPPEARED.

4. US REPEATED SUGGESTION MADE AT FIRST MEETING THAT
MEMBERS OF GATT SECRETARIAT BE PRESENT, AMONG OTHER THINGS, TO

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PREPARE SHORT SUMMARY OF MAIN POINTS COVERED IN DISCUSSION. EC REP (LUYTEN) AGRUED THAT CONSULTATIONS WERE BILATERAL AND SECRETARIAT PRESENCE INAPPROPRIATE. US SAID IT WOULD CONSIDER PREPARING ITS OWN SHORT SUMMARY AND DISSTIBUTING IT TO OTHER PARTICIPANTS.

5. TOWARD END OF MEETING, US DISTRIBUTED NEW PAPER COMPARING EFTA AND EC/EFTA TARIFF DIFFERENTIALS WHICH DEMONSTRATES THAT DIFFERENTIALS IN SET OF EC/EFTA AGREEMENTS ARE SMALLER THAN THOSE THAT PREVAILED IN EFTA PRIOR TO IMPLEMENTATION OF THESE AGREEMENTS. PAPER POSES QUESTION WHY ORS IN PRESENT AGREEMENTS ARE STRICTER THAN THOSE IN ORIGINAL EFTA WHEN TARIFF DIFFERENTIALS (AND THEREFORE TRADE DEFLECTION POTENTIAL) ARE SMALLER. ALSO QUESTIONED BASIS OF INDIVIDUAL ORS IN LIGHT IF RELEVANT DIFFERENTIALS. US EXPRESSED HOPE PARTIES COULD COMMENT ON THIS PAPER AT NEXT MEETING, THAT WAY COULD BE FOUND TO DISCUSS PREVIOUS PAPER AND THAT PARTIES WOULD PROVIDE INFORMATION REQUESTED AT FIRST MEETING BUT NOT COVERED IN EC/EFTA STATEMENT.

6. IN VIEW OF IMPASSE AT CURRENT MEETING, US SUGGESTED THAT FOLLOWING DAY BE USED FOR INFROMAL DISCUSSIONS AND THAT THIRD MEETING OF CONSULTATIONS BE SCHEDULED FOR OCTOBER. US WOULD PREPARE PAPER ON ECONOMIC EFFECTS FOR ORS WITH ACTUAL, ILLUSTRATIVE CASES OF INJURY TO US
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TRADE. THERE WAS NO OBJECTION TO OCTOBER MEETING.

7. ON FOLLOWING DAY (JULY 12) US DEL MET SEPARATELY WITH EFTA SECRETARIAT (STUGU), SWISS PERM REP, WHO WAS ALSO EFTA SPOKESMAN (DUNKEL), EC (LUYTEN) AND SWEDEN (COLLIANDER). US DEL EXPRESSED CONCERN AT LACK OF RESPONSIVENESS OF EC/EFTA STATEMENTS AT MEETING AND PROBED FOR WAYS OF PROCEEDING THAT WOULD AVOID COMPARISON IMPASSE. DISCUSSIONS REVEALED NO GIVE IN UNIFIED POSITION OF PARTIES THAT FURTHER DISCUSSION SHOULD BE BASED ON CONCRETE INJURY CASES. SEEMED TO BE SOME SLIGHT POSSIBILITY, HOWEVER, OF MOVING FROM SPECIFIC CASES TO CONSIDERATION OF GENERAL RULE APPLICABLE TO SIMILAR PRODUCTS.
DALE

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